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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

EX PARTE

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *RM-8643 - Petition for Rulemaking of Pacific Bell Mobile Services Regarding a Plan for Sharing the Costs of Microwave Relocation*

Yesterday, I faxed a copy of the attached Senate colloquy to Linda Kinney of the Wireless Bureau. Please associate the attached material with the above-referenced proceeding.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Gina Harrison / AH

cc: Laurence Atlas
Jackie Chorney
Regina Keeney
Linda Kinney
Dan Phythyon
Gerald P. Vaughan

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John Breaux Fritz Hollings

COLLOQUY BETWEEN SENATORS BREAUX AND HOLLINGS
NEGOTIATION ABUSES INVOLVING MICROWAVE INCUMBENTS
SEPTEMBER 28, 1995

Mr. Breaux: I would like to raise an issue that has become of concern to several members of this committee on both sides of the aisle.

Senator Hollings, previously as chairman of this committee and of the Appropriations subcommittee, you were instrumental in establishing spectrum auctions for new PCS services, and you were a guiding force on developing the rules that were adopted by the FCC governing relocation of microwave licensees out of this spectrum.

You are aware, as we have discussed, that certain enterprising individuals have recruited a number of microwave incumbents as clients and now seem to be manipulating the FCC rules on microwave relocation to leverage exorbitant payments from new PCS licensees.

I am advised that if this practice continues unchecked, more and more microwave incumbents are likely to employ these unintended tactics. More importantly, it will reportedly devalue spectrum in future auctions to the tune of up to \$2 billion as future bidders factor this successful gamesmanship into their bidding strategy. Previously scored revenue for deficit reduction will be unfairly diverted instead into private pockets.

Would you agree with me:

- 1) that this type of gaming of relocation negotiations was unintended, is unreasonable and should not be permitted to continue unchecked;
- 2) that the affected parties should attempt to agree on a mutually acceptable solution to this problem;
- 3) that if an acceptable compromise cannot be brought forth by the affected parties within a reasonable time period, then either Congress or the FCC should address this matter as quickly as possible with appropriate remedies?

Mr. Hollings: I thank my colleague for raising this issue. As you noted, I offered an amendment on the State, Justice, Commerce Appropriations bill in 1992 on this issue. The electric utilities, oil pipelines and railroads must have reliable communications systems. The FCC initially proposed to move these utilities' communications systems from the 2 gigahertz band to the 6 gigahertz band without ensuring that the 6 gigahertz band would provide reliable communications.

My amendment, which the FCC subsequently adopted in its rules, guaranteed that the utilities could only be moved out of the 2 gigahertz band if they are given 3 years to negotiate an agreement, if their costs of moving to the new frequency are paid for, and if the reliability of their communications at the new frequency is guaranteed.

Now I understand that some of the incumbent users may be taking advantage of the negotiation period to delay the introduction of new technologies. It was certainly not my intention to give the incumbent users an incentive to delay moving to the 6 gigahertz band purely to obtain more money. I agree with my friend that the parties involved in this issue should try to work out an acceptable solution to this issue. If the parties cannot agree to work out a compromise, I believe that we may need to revisit this issue in legislation.